

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :

of

UGP Properties, Inc. :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Corporation
Franchise Tax under Article 9A of the Tax Law for :
the Fiscal Years Ending 3/31/73 - 3/31/74.

State of New York
County of Albany

Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 4th day of August, 1982, he served the within notice of Decision by certified mail upon UGP Properties, Inc., the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

UGP Properties, Inc.
710 Ring Bldg.
Washington, DC 20026

and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
4th day of August, 1982.

James A. Haglund

J. Vredenburg

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition
of
UGP Properties, Inc.

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AFFIDAVIT OF MAILING

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Franchise Tax under Article 9A of the Tax Law for :
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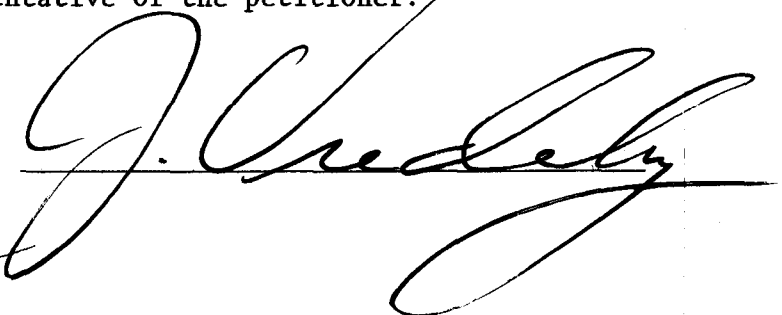

Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 4th day of August, 1982, he served the within notice of Decision by certified mail upon Imogene Lehman the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Imogene Lehman
Webster & Sheffied
1200 New Hampshire Ave. N.W.
Washington, DC 20036

and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the representative of the petitioner herein and that the address set forth on said wrapper is the last known address of the representative of the petitioner.

Sworn to before me this
4th day of August, 1982.

STATE OF NEW YORK
STATE TAX COMMISSION
ALBANY, NEW YORK 12227

August 4, 1982

UGP Properties, Inc.
710 Ring Bldg.
Washington, DC 20026

Gentlemen:

Please take notice of the Decision of the State Tax Commission enclosed herewith.

You have now exhausted your right of review at the administrative level. Pursuant to section(s) 1090 of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within 4 months from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to:

NYS Dept. Taxation and Finance
Law Bureau - Litigation Unit
Albany, New York 12227
Phone # (518) 457-2070

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
Imogene Lehman
Webster & Sheffied
1200 New Hampshire Ave. N.W.
Washington, DC 20036
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
UGP PROPERTIES, INC.	:	DECISION
for Redetermination of a Deficiency or for	:	
Refund of Franchise Taxes on Business Corpora-	:	
tions under Article 9-A of the Tax Law for the	:	
Fiscal Years ended March 31, 1973 through	:	
March 31, 1976.	:	

Petitioner UGP Properties, Inc., 710 Ring Building, Washington, D.C. 20026, filed petitions for redetermination of a deficiency or for refund of franchise tax on business corporations under Article 9-A of the Tax Law for the fiscal years ended March 31, 1973, March 31, 1974, March 31, 1975 and March 31, 1976 (File Nos. 19768 and 21613).

Petitioner, by its attorneys, Webster & Sheffield, waived a formal hearing by a letter dated March 13, 1978 and requested that the issue with respect to the years ended March 31, 1973 and 1974 be submitted to the State Tax Commission for a determination based on the entire record contained in the file. In a letter dated March 7, 1979 petitioner also waived the right to a formal hearing for the years ended March 31, 1975 and 1976 and submitted those two years for a determination, by the State Tax Commission based on the record contained in the file.

ISSUE

I. Whether petitioner is entitled to an allocation of business income or business capital.

II. Whether petitioner during the years in issue maintained a regular place of business outside New York State, so as to qualify for an apportionment of its business capital.



FINDINGS OF FACT

1. Petitioner, UGP Properties, Inc. (hereinafter "UGP"), was incorporated under the laws of the State of New York on December 5, 1967 and is a wholly-owned subsidiary of Union General Properties, Ltd. (hereinafter "Parent"), a United Kingdom real estate corporation with offices in London, England. Parent is not subject to New York City, New York State or United States taxes.

2. UGP was organized by Parent to enter into an agreement with the 51st Street Realty Corp., a subsidiary of the New York Central Company, under which UGP would demolish Grand Central Terminal and construct an office building on the site. Since Grand Central Terminal has been designated a "landmark", permission is required before demolition. New York City denied permission.

3. The agreement (referred to in Finding of Fact "2", supra) is conditioned on the approval of demolition, after which it becomes a lease for a term of fifty (50) years, with an option to renew for an additional 25 years. The agreement was negotiated in 1967 by Mr. M. Saady, managing director of Parent and president of UGP. Mr. Saady comes to New York a few times a year in connection with the affairs of UGP.

4. On its franchise tax reports for the fiscal year ended March 31, 1973 through the fiscal year ended March 31, 1976 petitioner apportioned its capital base for tax purposes on the alleged ground that it maintained a regular place of business outside New York and, therefore, qualified for apportionment of its business capital.

5. On March 19, 1976, the Audit Division issued a Statement of Audit Adjustment against petitioner for the fiscal year ended March 31, 1973, disallowing the business allocation on the ground that no regular place of business was maintained by petitioner outside New York State. On May 21, 1976, the Audit

Division issued a Notice of Deficiency against petitioner for the above fiscal year in the amount of \$750.18, representing a deficiency of \$614.00, plus penalty and interest of \$136.18. Petitioner filed a timely petition for revision or refund with respect to said Notice of Deficiency.

6. For the fiscal year ended March 31, 1974, a Statement of Audit Adjustment was issued on July 1, 1977, disallowing the business allocation. It was followed on August 23, 1977 by a Notice of Deficiency imposing additional franchise tax of \$2,728.41, plus interest of \$622.62, for a total of \$3,351.03. Petitioner timely filed a petition with respect to said Notice of Deficiency

7. On October 14, 1977 the Audit Division issued a Statement of Audit Adjustment against petitioner for the fiscal years ended March 31, 1975 and March 31, 1976. Notices of deficiency were later issued in the amounts of \$2,767.00 for 1975 and \$3,586.80 for 1976.

8. UGP neither owned nor rented real property, and had no paid officers or employees; however, Mr. Murray Drabkin, a vice-president, received legal fees from petitioner during the fiscal years at issue. During said years, UGP had receipts consisting of interest earned on certificates of deposit held by the 51st Street Realty Corp. as a rent security deposit.

9. Petitioner has failed to present any evidence that it maintained a bona fide and regular place of business outside New York State during the years in issue.

CONCLUSIONS OF LAW

A. That the office of the parent corporation in London, England, did not qualify as a bona fide and regular place of business of petitioner, for corporation franchise tax purposes. UGP was not holding itself out to be doing business in

England, had no British source income and did not file any income tax return with the United Kingdom.

B. That the Washington, D.C., office of petitioner's attorneys did not qualify as a bona fide regular place of business of petitioner for franchise tax purposes, since no evidence was presented that it was holding itself out as doing business there.

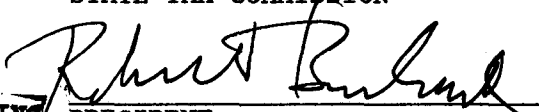
C. That petitioner was incorporated in New York for the purpose of conducting real estate operations in New York State and that its business capital and income had a situs in New York during the years in issue.

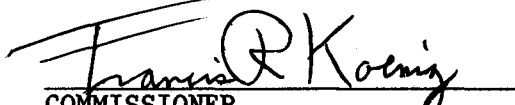
D. That petitioner, UGP Properties, Inc. is not entitled to an allocation of business income or business capital for the fiscal years ended March 31, 1973 and March 31, 1974, within the intent and meaning of section 210.3(a)(4) of the Tax Law; that the notices of deficiency issued against petitioner for the fiscal years ended March 31, 1973, March 31, 1974, March 31, 1975 and March 31, 1976 are correct; and that the petitions filed for a redetermination of same are hereby denied.

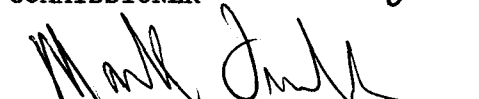
DATED: Albany, New York

AUG 04 1982

STATE TAX COMMISSION


ACTING PRESIDENT


COMMISSIONER


COMMISSIONER